

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

STEPHEN COMPAGNI, INDIVIDUALLY
AND AS SOLE OFFICER OF ECONOMY
PAVING INC.,

Plaintiffs,

vs.

TOWN OF CORTLANDVILLE, TOWN
OF CORTLANDVILLE PLANNING
BOARD, JOHN DELVECCHIO, in his
Individual and Official Capacity, JOHN
FOLMER, in his Individual and in his
Official Capacity, KATHERINE
WICKWIRE, in her Individual and in her
Official Capacity, CHRISTOPHER
NEWELL, Individually and in his Official
Capacity, NICHOLAS RENZI, Individually
and in his Official Capacity, NASRIN
PARVIZI, Individually and in her Official
Capacity, BRUCE WEBER, Individually
and in his Official Capacity, RICHARD
TUPPER, Individually and in his Official
Capacity, and DOES 1-100,

Defendants.

**DECLARATION IN SUPPORT OF
MOTION PURSUANT TO
FED. R. CIV. P. RULE 25**

Civil Action No.: 5:20-cv-00489-GTS-ATB

**DECLARATION OF JESSE RYDER IN SUPPORT OF PLAINTIFFS' MOTION
PURSUANT TO FED. R. CIV. P. 25 TO SUBSTITUTE A PROPER PARTY FOR THE
DECEASED DEFENDANT, JOHN FOLMER.**

JESSE RYDER, hereby declares as follows:

1. I am the attorney for plaintiffs in this action, Stephen Compagni.
2. I submit this declaration in support of the motion made on behalf of plaintiffs pursuant to Fed. R. Civ. P. 25 to substitute Tiffany Lawrence, the decreed executor of

the estate of John Folmer, as a proper party in place and stead of deceased defendant, John Folmer in the instant lawsuit.

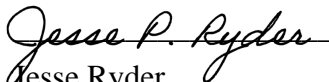
3. Accompanying this application as Plaintiffs' Exhibit 1 is a true copy of a letter dated October 30, 2023, that was addressed and received by this Court from Defendants' counsel, Philip Gulisano advising the Court of the death of John Folmer on May 28, 2023. Dkt. 64
4. Accompanying this application as Plaintiffs' Exhibit 2 is a true copy of this Court's November 20, 2023 Text minute entry wherein the Court acknowledges that on the November 20, 2023 status conference, the parties have stipulated that Defendants' October 30, 2023 letter, Dkt. 64 announcing the death of Defendant John Folmer "constitutes a valid suggestion of death with respect to defendant John Folmer under Rule 25."
5. Accompanying this application as Plaintiffs' Exhibit 3 is a true copy of the Surrogate Court of Cortland County's Decree Granting Probate Administration, dated September 27, 2023 with respect to deceased John Folmer's estate wherein the court decreed John Folmer's daughter, Tiffany F. Lawrence, as Mr. Folmer's Estate's executor. The Surrogate Court decreed that Tiffany Lawrence was to be issued the Estate's Letters of Administration, and henceforth possess the authority to pass real and personal property as directed and designated through John Folmer's Last Will and Testament. Independently, I confirmed through the New York State Courts Electronic Filing System that a probate proceeding had indeed commenced and was completed with the Court duly issuing its Decree, dated September 27, 2023.
6. Accompanying this application as Plaintiffs' Exhibit 4 is a true copy of a January 17, 2023 email from Counsel Jesse Ryder to counsel Donald Armstrong of Pomeroy, Armstrong, Cosullo, LLP, the attorney of record before the Surrogate Court, Cortland County inquiring whether Mr. Armstrong intended to continue to represent the Estate of John Folmer in the instant action upon the Estate's substitution into the proceeding. Mr. Armstrong was also asked whether the Estate would consent to service of the instant motion were Mr. Armstrong to continue to represent the Estate in the instant case. To date, Plaintiff has received no response.
7. Accompanying this application as Plaintiff's Exhibit 5 is a true copy of a January 17,

2023 email from Counsel Jesse Ryder to Defendants counsel Philip Gulisano and Mr. Gulisano's reply on January 18, 2023 inquiring whether Mr. Gulisano will continue to serve as counsel of record for the Estate of John Folmer and if so, whether he would consent to service of this instant Motion to Substitute. In addition, the email reflects Plaintiff's query as to whether Defendants' would enter into a stipulation consenting to the substitution of Defendant, the Estate of John Folmer for deceased Defendant, John Folmer. On or about January 18, 2023, Defendants' counsel, Philip Gulisano replied stating that "At this point, I cannot accept service or stipulate to the proposed relief. I just don't have the authority. I will reach out and see if I am able, and I will let you know if I am."

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge information and belief.

DATED: January 24 ,2024

Respectfully submitted,


Jesse Ryder